

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Case No. 1:20-cr-00008 (MKB)

-against-

NOTICE OF MOTION

STEVEN NERAYOFF,

ORAL ARGUMENT REQUESTED

Defendant

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PLEASE TAKE NOTICE that upon the Declaration of Michael A. Scotto, Esq., dated February 13, 2023, all the exhibits attached thereto, the accompanying Memorandum of Law, and all prior papers and proceedings in this action, the defendant Steven Nerayoff, by his undersigned attorney, moves this Court before the Honorable Margo K. Brodie, for an Order granting the following relief:

- (1) Dismissing the Indictment with prejudice pursuant to Fed R. Crim Pro 12(b) because it is based upon materially false testimony submitted to the Grand Jury and thus violates the Due Process and Grand Jury clauses of the Constitution;
- (2) Disclosing portions of the Grand Jury minutes that relate to Mr. Nerayoff's dealing with the alleged victims and said false testimony pursuant to Fed R. Crim. Proc 6e, or in the alternative for the Court to perform and in camera review of such minutes;
- (3) Compelling the Government to promptly produce material described in the papers in support of the motion as required either under Fed. R. Crim. Pro 16, this Court's 5(f) Order and/or under *Brady v Maryland*, 373 U.S. 83 (1963) and its progeny;

- (4) Allowing defendant the opportunity to renew this motion supplemented with portions of the grand jury minutes and requested discovery or to seek additional relief based on that disclosure if granted; and
- (5) for such other and further relief as the Court may deem just and proper.

Dated: February 13, 2023
Port Washington, NY

Respectfully submitted,

/s/Michael A. Scotto
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cc: Counsel for the Government (via ECF and email)